



NEW YORK CITY HOUSING AUTHORITY

Date: January 19, 2021

New York City Housing Authority
Initial Action Plan – Lead-Based Paint
Obligations: HUD Agreement, Exhibit A

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Table 1: Guide to Acronyms

NYCHA	New York City Housing Authority
SDNY	United States Attorney for the Southern District of New York
CFR	Code of Federal Regulations
DOHMH	NYC Department of Health and Mental Hygiene
EPA	US Environmental Protection Agency
USC	United States Code
HPD	NYC Department of Housing Preservation and Development
HUD	US Department of Housing and Urban Development
RCNY	Rules of the City of New York
LL	Local Law
LBP	Lead-based paint
EBLL	Elevated Blood Lead Level
RRP	Renovation, Repair and Painting
CEP	Community Engagement & Partnerships
EH&S	Environmental Health and Safety Department
LHC	NYCHA's Lead Hazard Control Department
LSHR	Federal Lead Safe Housing Rule
XRF	X-ray fluorescence
µg	Micrograms
ft ² or sq. ft.	Square Feet
TEMPO	Team for Enhanced Management Planning & Outreach
CCC	Customer Contact Center
IT	Information Technology
QRG	Quick Reference Guide
LCAP	Lead Compliance Assurance Program
LOT	EH&S Lead Oversight Team
QA	Quality Assurance
QC	Quality Control

PACT	Preserving Affordability Commitment Together
O&M	Operations and Management Plan
Pb	Lead
PHA	Public Housing Authority
RAM	Regional Asset Manager
FRL	Forms and Reference Library

Table 2: Key Definitions

Definitions¹		Source
Lead Exceptions Report	A periodic report issued by NYCHA Compliance of trends and deficiencies in relation to NYCHA's lead regulatory adherence. There will be four Lead Exceptions Reports per year.	
Target Housing	All housing built before 1978, except for (a) housing for elderly, housing for the disabled or zero-bedroom dwellings (unless a child < 6 resides there or is expected to reside there)	42 U.S.C. §4851b
"De minimis" Exception	Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than: (1) 20 square feet (2 square meters) on exterior surfaces; (2) 2 square feet (0.2 square meters) in any one interior room or space; or (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.	24 CFR §35.1350(d)
Lead Based Paint	Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight	24 CFR §35.110
Lead Abatement	Any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to: the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust or soil. The full regulatory definition of abatement is included in the referenced EPA regulation 40 CFR §745.223.	40 CFR §745.223
Certified Lead Inspector	An individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to 40 CFR § 745.226 to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.	40 CFR §745.223
Certified Risk Assessor	Certified risk assessor means an individual who has been trained by an accredited training program, as defined by this section, and certified by EPA pursuant to 40 CFR § 745.226 to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.	24 CFR §745.223
Common Area	The portion of a residential property of more than one dwelling unit that is available for use by occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.	24 CFR §35.110
Elevated Blood Lead Level	Elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental	24 CFR §35.110

¹ To the extent that the definition of terms in this table varies from the definitions contained in federal law or regulations, the definition contained in the federal law or regulation controls and is incorporated herein by reference.

	intervention be conducted. The current EBLL standard is greater than 5 micrograms per deciliter or greater.	
Visual Assessment	Visual assessment means looking for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) The completion or failure of a hazard reduction measure.	24 CFR §35.110
Risk Assessment	An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.	24 CFR §35.110
Clearance or clearance examination	An analysis performed after hazard reduction, rehabilitation, or maintenance activities to determine if a unit or common area is free of lead hazards, except when very small (de minimis) amounts of paint are disturbed. It involves a visual assessment, analysis of dust samples, and provision of report. The certified risk assessor, paint inspector, or lead sampling technician performing clearance must be independent from the entity, department or individual conducting RRP or hazard reduction work.	24 CFR §35.110
Lead-Based Paint Hazards	Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.	24 CFR §35.110
Dust Sampling/Wipe	A sample collected by wiping a representative surface of known area by an acceptable wipe material, as defined by the EPA.	40 CFR §745
Hazard reduction	Measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.	24 CFR §35.110
Encapsulation	A process that applies a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.	40 CFR §745.223
Enclosure	The use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.	40 CFR §745.223
Child Occupied Facilities	Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of	40 CFR §745.83

	the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.	
Child Under 6 (or “CU6”) Apartment	An apartment where a child 5 years old or younger lives or routinely spends more than 10 hours per week.	
Component	An architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.	24 CFR §35.110
Interim Controls	Set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.	24 CFR §35.110
White Paper	Report or guide that informs readers concisely about a complex issue and presents the issuing body's policies.	NA
XRF Initiative	A NYCHA program started in 2019 which NYCHA is endeavoring to complete in 2022 to perform lead inspections using XRF equipment of approximately 134,000 apartments.	

A. Obligations and Action Item Summary

HUD Obligation	Action #	Action Item	Completed By	Status
Exhibit A, ¶¶ 2, 4, 5, 15, 16, 17, & 30	1.	Establish and Implement a Team for Enhanced Management, Planning & Outreach (TEMPO) for Apartments where a Child Younger Than Six Years Old Lives and with Known or Presumed LBP		
		Perform supplemental surveys to identify where a Child Under 6 (CU6) lives for enrollment into TEMPO	2/28/21	
		Revise owner group criteria in Maximo for assignment of apartments to TEMPO Repair program	2/28/21	
		Notify residents of participation in TEMPO program	3/15/21	
		Complete XRF testing in 2,840 CU6 apartments	6/30/21	
		Commence abatement in TEMPO apartments w/ 2 or less positive components	5/15/21	
		Start assignment of work orders and all enhanced assessment, clearance, interim control, complaint response, and oversight protocols in TEMPO apartments w/ 3 or more positive components	5/15/21	
		Complete first of two visual assessments in all CU6 apartments	6/30/21	
		First bi-monthly update of TEMPO apartments	7/15/21	
		Second bi-monthly update of TEMPO apartments	9/15/21	
		Begin outreach to expecting parents in lead positive or presumed apartments to enroll in TEMPO	9/1/21	
		Third bi-monthly update of TEMPO apartments and continuing every other month	11/15/21	
		Announce next tranche of CU6 abatement apartments	12/31/21	
		Complete second visual assessment in CU6 apartments and continuing on same schedule moving forward	12/31/21	
		Complete abatement in TEMPO apartments w/ 2 or less positive components	10/31/22	

Exhibit A, ¶¶ 2, 4, 5, 15, 16, 17, & 30	2.	Identification of Children Younger Than Six Years Old in NYCHA Apartments with Known or Presumed LBP			
		Launch 2019 outreach campaign around Local Law (LL1) annual notice	Completed		
		Attempt/perform 2020 apartment visits for 48,000 survey non-respondents using digital survey tool	Completed		
		Launch 2020 outreach campaign around LL1 annual notice	Ongoing		
		Submit to Monitor Resident Engagement Plan for ongoing engagement activities around CU6 identification	2/28/21		
		Modify existing certification forms or include communications materials with forms explaining importance of CU6 identification	5/31/21		
		Launch 2021 yearly awareness campaign	12/1/21		
Exhibit A	3.	Create a Comprehensive Lead Safe Housing Standard Procedure			
		Posting Version 1.0 of the Manual to Forms and Reference Library (FRL)	Completed		
		Distributing Hard Copies to LHC Staff	Completed		
		Issue Version 2.0 of Manual	Completed		
		Issue all Quick Reference Guides (QRGs)	Completed		
		Completing Staff Acknowledgments of Lead Procedure Manual	2/28/21		
		Completing Training for LHC Staff	4/15/21		
		Reviewing Manual to determine if updates are needed	6/30/21		
Exhibit A, ¶¶ 2, 14 – 18, 30 – 33.	4.	Implement a Lead Compliance Assurance Plan			
		Finalization of LCAP Protocols	Completed and Ongoing		
		Periodic Exceptions Reporting	Completed and Ongoing		
		Activation of Field Monitoring and Field QA/QC Activities	Completed and Ongoing		
		Documentary Compliance Monitoring	Completed and Ongoing		
		10 th Exceptions Report	3/31/21		
		11 th Exceptions Report	5/31/21		
		12 th Exceptions Report	9/30/21		
		13 th Exceptions Report	11/30/21		

		5. Enhance Information Technology Functions to Support LBP Compliance		
		Establish ongoing standing meeting with NYCHA IT to review ongoing and potential new projects, maintained on a project tracker	Ongoing	
Exhibit A ¶¶, 15 and 30.		Implement component level notification for apartments that have undergone XRF testing	Completed	
Exhibit A, ¶ 14.		New controls on abatement work orders to improve compliance	Completed	
Exhibit A, ¶¶ 4 – 5, 15.		Revise Maximo owner group to be assigned work orders in CU6 apartments	2/28/21	
Exhibit A, 16 – 17.		Create work order process in Maximo for interior common areas	Completed	
Exhibit A, ¶¶15- 17		Incorporate lead inspection data for interior common areas for use in the common area painting project	Completed	
Exhibit A, 15(e)(f) & 30.		Produce report evaluating the success of the digital pre- and post-renovation RRP checklists	3/31/21	
A ¶¶, 15 and 30.		Create automated process for removing RRP restrictions once unit tests negative through XRF initiative	Completed	
Exhibit A, ¶ 14.		Enhance details in Maximo to identify method and scope of abatement	Ongoing	
Exhibit A, ¶¶ 14(e), 15(j), and 30.		Implement system to electronically track dust sample results and recleaning activities	Completed	
Exhibit A, ¶¶ 23- 25		Send communication to DOHMH to request automated notification process with DOHMH for EBLLs	2/28/21	
Exhibit A, ¶ 18.		Implement Maximo enhancement necessary to implement biennial risk assessments	Ongoing	
Exhibit A, ¶¶ 14, 15, and 30.		Create all Maximo inspection work orders used by EH&S in its field observation activities of RRP and abatement projects	Completed	
Exhibit A, ¶ 18	6.	Conducting Biennial Risk Assessments		
		Award contracts with risk assessment firms	Completed	
		Project plan and schedule	Completed	
		Complete IT enhancements necessary to perform visual assessments	Completed	

		Completion of Risk Assessment Field Work	Ongoing	3/1/21
		Final Risk Assessment Reports	3/31/21	
		Development Specific O&M Plans	12/31/21	
Exhibit A, ¶¶ 15, 30, and 33	7.	Lead Training for Employees		
		Designated staff complete training for lead inspector, risk assessor, project designer training	6/30/21	
		All staff in LHC receive HUD visual assessment training and technical staff will receive EPA Lead Inspector Training	4/15/21	
		Provide training plan for 2021 and 2022	12/31/21	
		Launch two-hour online RRP refresher training	10/31/21	
		Launch online lead disclosure training for Property Management staff	Completed	
Exhibit A, ¶¶ 27 – 29	8.	Implement Methods to Comply with the Lead Disclosure Rule		
		Enhancements to Siebel online portal on Lead Disclosure Rule	Completed	
		EH&S monitoring of Lead Disclosure Rules compliance in Monthly Exceptions Report	Ongoing	
		Compliance monitoring of tenant files for paper record compliance	Ongoing (24 visits expected in 2021)	
		Regional Asset Manager (RAM) quarterly monitoring of development compliance with Lead Disclosure Rule	6/30/21	
		Issuance of QRG for Lead Disclosure Rule	Completed	
		Launch online training for Lead Disclosure Rule	Completed	
¶ 15; Exhibit A, ¶¶ 2, 30	9.	PACT/RAD Lead Compliance Monitoring Program and Assessment of Capital Contract Specifications		
		Formation of working group	Completed	
		Draft White Paper for PACT	Completed	
		Issue final White Paper to Chair and GM	2/28/21	
		Complete CPD White Paper	3/31/21	
Exhibit A, ¶ 3	10.	Complete the New York City Department of Housing Preservation and Development Exemption Process for All Public Housing Developments		

		Establishment of subunit in LHC for processing exemptions	2/28/21	
		Create tracker for exemption applications, including specifying any HPD Requests for Information or questions	5/1/21	
		Commence meeting performance standard of exemption applications per month to address current backlog	5/1/21	
		Response to any HPD Requests for Information in 30 days and escalate any issues beyond 30 days to Director of Healthy Homes and GM	5/1/21	
		Create exemption flag in Maximo for apartments that receive HPD exemptions	5/1/21	
		Create recordkeeping system for exemptions, notify residents, and update Siebel portal	6/30/21	
Exhibit A, ¶¶15(b) and 30	11.	Lead Vendor Compliance Portal for Vendor Staff Certifications and Other Required Documents		
		Establish RRP vendor management portal for listing vendors and vendor certificates	Completed	
		Begin issuing formal communication to additional NYCHA vendors that may perform RRP work	2/28/21	
		Upload vendor staff names into vendor portal and update monthly	3/1/21	
		Require Property Management staff to check logbook to verify inputting EPA ID number of certified renovators	3/1/21	
		Update RRP language in process to mandate vendors to submit firm and worker certifications on the Vendor Portal	3/1/21	
		EH&S field monitoring of RRP certifications and requirements	Completed	

B. Overview

This is an initial action plan intended to document certain steps the New York City Housing Authority (NYCHA) has taken and will be taking pursuant to the schedule set forth herein to comply with its numerous obligations regarding lead-based paint. A revised action plan adding necessary refinements and details of two additional proposed actions (covering occupant protection and clearance when children under six are not present in apartments, and setting forth the details and scheduling of paint work in common areas) will be prepared and published as soon as all details are resolved among the parties and the Monitor. Since the implementation of the HUD Agreement, NYCHA has been working diligently to improve its compliance with lead-based paint regulations and has also worked closely with the Monitor, HUD and the SDNY in doing so.

NYCHA owns and operates approximately 169,820 apartments in 2,252 buildings across 311 developments. Of these, approximately 163,987 apartments across 253 developments are in buildings constructed prior to 1978. Buildings constructed prior to 1978, generally, are subject to the protections of federal lead paint safety regulations. These are set forth in the Lead Safe Housing Rule at 24 CFR (Code of Federal Regulations) Part 35, Subparts B-R (LSHR), administered by U.S. Department of Housing and Urban Development (HUD), and the Renovation, Repair, and Painting Rule and Lead-Based Paint Activities Rules at 40 CFR Part 745, Subparts E, and L (EPA Rules), administered by the United States Environmental Protection Agency (EPA), unless a building or a portion of a building is deemed exempt pursuant to criteria established under these rules.

Additionally, federal law mandates that HUD and EPA require the disclosure of known information on lead-based paint and lead-based paint hazards before the sale or lease of most housing built before 1978. These regulations – known as the Lead Disclosure Rule (LDR) – are set forth in Subpart A of 24 CFR Part 35 and Subpart F of 40 CFR 745. The LDR also applies at the time of lease renewal, if new information is available or if information was not disclosed as required at the time of the initial lease or prior renewals.

The January 31, 2019 agreement among NYCHA, HUD, the United States Attorney for the Southern District of New York (SDNY) and New York City (hereinafter the “Agreement”) outlines milestones and requirements related to compliance with federal law governing lead-based paint (LBP) at NYCHA developments. These milestones and requirements are designed to achieve compliance with the LSHR, LDR, and the EPA Rules. NYCHA also is subject to the requirements of New York City’s Local Law 1 of 2004 (“LL1/2004”), which intersects with many of the requirements of the Agreement.

Paragraph 35 of the Agreement requires NYCHA to prepare Action Plans setting forth policies and practices to be adopted and specific actions to be taken by NYCHA to achieve all the requirements of the Agreement, including those related to LBP.

As approved and updated periodically, this Action Plan reflects policies and practices to be adopted by NYCHA, and specific actions to be taken by NYCHA, to fulfill certain LBP-related requirements under the LSHR, the EPA Rules, the LDR, and the Agreement. This Action Plan is intended as an initial action plan, and it is expected that a second action plan building and expanding on these actions and addressing matters not included in this Action Plan, will be proposed as soon as possible.

Exhibit A of the Agreement sets forth more than forty specific obligations with respect to NYCHA's compliance with Title X, HUD and EPA regulations and guidelines for the evaluation and control of LBP and LBP hazards. Exhibit A requirements relate mostly to the LSHR, the LDR, and the EPA Rules, including the following:

- Overall continuous compliance with the following: LSHR, LDR and the EPA Rules (¶2)
- Requirements for Specific Priority Apartments (Apartments with Children Younger Than Six) and Common Areas (¶¶ 4 – 7)
- Abatement of LBP (¶¶ 8 – 14)²
- Lead Safe Work Practices (¶15)
- Annual Visual Assessments (¶¶16 – 17)
- Biennial Risk Assessment Reevaluations (¶18)
- Risk Assessments, Investigations and Abatement Triggered by Elevated Blood Lead Levels (EBLL) (¶¶19 – 22)
- EBLL Reporting (¶¶23 – 26)
- Compliance with Lead Disclosure Requirements for New Leases and Renewals (¶¶27 – 29)
- Twice-Yearly Certifications on Compliance with Certain Lead Paint Requirements (¶¶30 – 32)
- Specific Obligations Focused on Compliance with EPA's Renovation, Repair and Painting (RRP) Rule, which is a part of the overall EPA Rules (¶33).

To ensure implementation and ongoing compliance with this Action Plan, NYCHA commits to the following steps:

² Pursuant to the HUD Agreement, NYCHA provided records of certain prior LBP inspections to HUD and the United States Attorney for the Southern District of New York. *See* ¶6.

1. IT will post the Action Plan on NYCHA's website, as required by the Agreement, upon approval;
2. Within 60 days of the Monitor approving the Action Plan, the Director of Healthy Homes will host trainings on the action plan requirements and responsibilities for all Lead Hazard Control employees, Directors, Regional Assessment Managers, Property Managers, Property Maintenance Supervisors, Skilled Trades Deputies, Maintenance, Skill Trades, and other designated staff in the Management and Planning Department. The Director will provide an explanation of the intent and purpose of the Action Plan and explain the requirements and process changes that will occur in conformance with the obligations. He will provide monthly written updates to keep staff abreast of any changes and updates.
3. The Director of Lead Hazard Control will distribute copies of the Action Plan to all Lead Hazard Control employees within 7 calendar days of the Action Plan's approval.
4. The General Manager (GM) will e-mail the Action Plan to all Property Management staff, along with a summary of the Action Plan listing action items in bullet form.
5. The GM's Office, in collaboration with the Directors of Healthy Homes and Compliance, will host two meetings with the Regional Asset Managers under the Vice Presidents of Operations to explain and discuss the Action Plan and answer any questions. These meetings will be held within 30 days of the Action Plan's approval.
6. Property Managers will distribute the Action Plan to all development staff during the daily morning muster, along with a summary of the Action Plan summarizing action items in bullet form.
7. Community Engagement & Partnerships (CEP) will meet with Tenant Association Presidents throughout March and April 2021 to present and discuss the features of the Action Plan and answer any questions.

C. Departmental Roles and Responsibilities Regarding LBP

Full compliance with LBP requirements necessitates day-to-day coordination across several NYCHA Departments, as LBP requirements apply to many daily activities, from basic apartment leasing, to general repair work, to complex technical work involving skills trades, and risk assessments and abatements. These activities also require significant assistance from supporting Departments such as Procurement, Human Resources, and Finance. This Section describes the Departments with primary responsibilities under this Action Plan, as well as NYCHA's strategy for ensuring efficient coordination amongst supporting Departments through established cross-Departmental Pillar Teams.

1. Departments with Primary Responsibilities

The Lead Hazard Control Department (LHC) within NYCHA Healthy Homes is responsible for oversight of NYCHA’s technical lead programs. The LHC Director’s responsibilities include, but are not limited to, inspections, visual assessments, risk assessments, reevaluations, lead abatement, post-abatement clearance, and work to address apartments with children with an EBLL.

NYCHA’s Property Management units within the Department of Operations ensure residents receive the appropriate LBP documents during the initial lease signing and annual recertification; follow-up if needed with residents who do not respond to the annual child residency survey³; and oversee most of the maintenance and skilled trade staff that perform renovation, repair, and painting work in NYCHA buildings.

NYCHA’s Management and Planning Department in the Department of Operations performs interim controls to correct deteriorated paint conditions, as well as other RRP work to address paint deficiencies.

NYCHA’s Environmental Health and Safety Department (EH&S) analyzes, oversees, and improves the environmental health and safety at NYCHA, including issues relating to lead-based paint. EH&S’ role is to ensure proper application of lead paint interim controls and proper abatement of lead paint.

The Compliance Department oversees regulatory compliance regarding federal, state, and local regulations and laws, including those related to LBP. Compliance also advises EH&S on any information obtained by Compliance that relates to environmental health and safety issues, and coordinates with EH&S to address these issues.

2. Cross-Departmental Pillar Teams

NYCHA has established specialized teams – referred to as Pillar Teams – to develop policies and projects to implement the requirements of the Agreement. The Lead Pillar Team is led by the Director of LHC. NYCHA appointed leads for the supporting team composed of the following major stakeholders and other supporting departments, as applicable:

- Compliance
- Operations
- Environmental Health and Safety
- Performance Management and Analytics
- Procurement

³ See Action 2 for further details.

- Law
- Information Technology
- Finance
- Human Resources
- Capital
- Real Estate Development
- Community Engagement & Partnerships
- Communications

The Agreement Pillar Team is accountable for compliance with the Agreement and the Action Plan. The team’s responsibilities include:

- Reporting at least quarterly to the Risk Advisory Council (co-chaired by the Chair and General Manager) and to the Monitor.
- Developing the plan to achieve compliance with the HUD Agreement and related action plans on schedule.
- Creating and maintaining risk trackers that transparently identify non-compliance with areas of the Agreement and/or Action Plan.
- Identifying and resolving obstacles to achieving full Agreement compliance and engineering the execution of solutions.

D. Ensuring Accountability for Daily, Ongoing LBP Compliance

NYCHA is developing and implementing standards in this Action Plan to change the culture of compliance to ensure that NYCHA management and employees understand their responsibilities and always adhere to legal requirements related to LBP.

NYCHA supervisors at all levels must within 60 days acknowledge, adopt and hereafter reinforce the following 10 principles, which will be reiterated across all trainings and written guidance called for by this Action Plan:

1. NYCHA will use accurate and complete testing and abatement data to determine the presence or absence of LBP in its developments, including apartments, interior common areas, and exterior common areas. If no testing or abatement data exists, NYCHA will presume the presence of lead-based paint in target housing;
2. NYCHA will ensure that it is adhering to all notice and disclosure requirements regarding pre-renovation education, notices of paint evaluation and hazard reduction activity as well

as the presence or presumed presence of LBP and LBP hazards to new and current residents. NYCHA will ensure that such notices and disclosures are accurate, clearly-worded, and based on the best available scientific data;

3. NYCHA will continuously employ and refine robust, ongoing measures to meet federal and local requirements, to identify children younger than six years old who reside in NYCHA developments and to take all actions required under the regulations to protect these children from LBP hazards;
4. NYCHA will properly conduct all required assessments and inspections set forth in the LSHR within the required timeframes;
5. NYCHA will perform interim controls or other hazard reduction activities within the timeframes required by the LSHR and EPA Rules, and will perform clearance examinations after such work in accordance with these regulations;
6. NYCHA will abide by all applicable lead safe work requirements for renovation, repair, and painting activities, interim controls, abatement, and any other hazard reduction activities, including the use of properly certified staff or vendors to perform such activities;
7. NYCHA will ensure that it is maintaining the staffing, resources, and contracts required to adhere to all lead-based paint requirements on a day-to day basis;
8. NYCHA will create and maintain accurate records related to LBP and will maintain those records in accordance with the regulations and the Agreement;
9. NYCHA will hold staff at all levels accountable (in accordance with Chapter 21 of the NYCHA's Human Resources Manual) for failure to adhere to any LBP regulation, guidance, policy, or procedure; and
10. NYCHA will disclose as appropriate any failure to adhere to LBP regulation to the Federal Monitor, HUD, and any other regulatory authority with jurisdiction, and will, in good faith, propose corrective actions to correct such compliance shortfalls.

NYCHA's efforts to meet its obligations under the Agreement and achieve its objectives as stated in this Action Plan is a multipronged approach that includes action items for the following departments: LHC, Operations, EH&S, Compliance, Performance Management and Analytics, Procurement, Information Technology, Finance, Human Resources, Capital, Real Estate Development, Community Engagement & Partnerships, and Communications. The head of each department is responsible and accountable to achieve these efforts and performance will be monitored by NYCHA's Compliance Department.

The eleven Actions described below will adhere to these 10 principles, the provisions of the HUD Agreement, and the requirements of the LSHR, the LDR, EPA Rules, and other regulations.

Action 1 – Establish and Implement the Team for Enhanced Management Planning & Outreach (TEMPO) for Apartments with a Child Younger Than Six Years Old with Known or Presumed LBP

Agreement Primary References: Exhibit A, ¶¶ 2, 4, 5, 15, 16, 17, & 30

LBP hazards pose the greatest risks to children who are younger than six years old (also referred to as “CU6”). To proactively prevent these risks from occurring, NYCHA needs to focus more resources on the apartments in its portfolio where these children reside which, under LL1/2004, means in apartments where children live or routinely spend more than 10 hours per week.

Therefore, NYCHA has established a new cross-departmental team within LHC and the Management and Planning Department – the Team for Enhanced Management, Planning, and Outreach (TEMPO) – that is dedicated to comprehensively managing an enhanced outreach, education, inspection, and remediation program in apartments where a CU6 resides if the apartment has known or presumed lead-based paint. As explained further below, in LHC, there will be the TEMPO Abatement Team focused on expediting abatement in CU6 apartments. In Management and Planning, there will be the TEMPO Repair Team, focused on enhanced lead safety protocols during repair work that could disturb lead-based paint. This program will be operationalized by May 15, 2021.

Tempo’s Year 1 - 2 Mission

TEMPO’s mission will be threefold in its first and second years.

1. **Expedited Abatement:** TEMPO will carry out expedited abatement of apartments where CU6 live and visit, starting with the apartments with 2 or fewer lead components. By December 31, 2021, NYCHA shall provide an updated Action Plan with the schedule of abatement for the next tranche of CU6 apartments.
2. **Enhanced Lead Safe Work Practice Protocols:** TEMPO will establish enhanced, coordinated work practices for apartments with 3 or more lead components where CU6 live (or apartments that have not been XRF tested and are presumed to have lead-based paint). These work practices will ensure that construction activities are carried out as safely and as expeditiously as possible to prevent any negative impact to children under 6. Having a dedicated team to manage and address lead-related work in these apartments will help to

ensure accountability, as well as to enable NYCHA to more effectively manage protocols related to LBP around our youngest residents.

3. **Twice Yearly Visual Assessments:** TEMPO will establish twice per year visual assessments in apartments where CU6 live or routinely visit more than 10 hours per week. The first visual assessments will be completed by June 30 each year. The second visual assessment will be completed by December 31 each year. Remediation of any deficiencies will be completed in 21 days. Residents enrolled in the TEMPO program will be provided with a hotline to request additional visual assessments during each year.

Identifying Apartments Where Children Under 6 Live or Routinely Visit 10 or More Hours Per Week

As further explained in Action 2, due to a 2019 change in law, LL1/2004 now requires NYCHA to identify apartments not only where CU6 live but also where they routinely visit 10 or more hours per week. In 2020, this change in law, coupled with NYCHA's enhanced outreach efforts, increased the overall number of CU6 apartments to 10,391.⁴ This number will change annually as children are born, children grow older, families move, or lead is abated.

All CU6 apartments will be subject to LSHR and LL1/2004 requirements. However, the TEMPO program will have different enhanced elements for apartments where children live versus apartments where children only visit. This distinction is being made because NYCHA will focus its most aggressive protocols on apartments where children spend the greatest amount of time. That said, all CU6 apartments will receive some enhanced protocol above existing requirements under the TEMPO program.

Currently, NYCHA does not have data to distinguish between apartments where children live versus apartments where children only visit. This is mainly because the DOHMH survey form used in 2020 did not distinguish between these two groups of apartments.

Therefore, to better distinguish these two groups, NYCHA will take the following actions:

- NYCHA will perform a telephonic survey to the residents of the 10,391 apartments identified in the 2020 annual notice. NYCHA will ask residents to identify if the CU6 lives in the apartment or routinely visits the apartment for 10 or more hours per week. NYCHA will record the results of the survey in Siebel. NYCHA will complete the telephonic survey by February 28, 2021.

⁴ The 10,391 apartments are in the universe of apartment regulated by the federal LSHR, which are covered by this Action Plan. There are an additional 10,579 apartments in developments that are considered negative under federal law, but not under City law because they do not yet have an exemption from HPD. TEMPO will apply to the federally regulated apartments. Action 10 addresses NYCHA's plan for obtaining the exemptions for the 10,579 apartments.

- Subject to the consent of the New York City Department of Health and Mental Hygiene (DOHMH), NYCHA will allow residents to identify whether CU6 live or routinely visit the apartment for 10 or more hours per week. NYCHA will use this method for both the mail-in survey and the in-person door knock survey. NYCHA will record the results of this survey in Siebel.

After it modifies the reporting tools, NYCHA will then establish these two categories of CU6 apartments in its Siebel and Maximo systems. It is expected that these apartments will need to be revised on at least an annual basis, or more frequently if there is a change in the apartment’s residency.

TEMPO Abatement Team - Expedited Abatement of Apartments with 2 or Fewer Lead Components Where Children Under 6 Live

Of the 10,391 CU6 apartments identified in 2020, there are 4,755 that have received an individual XRF inspection, and have 2 or fewer components that are positive (“≤ 2 Component Apartments”). Starting on or before May 15, 2021, NYCHA will prioritize the full abatement of any ≤2 Component Apartment where a child under 6 lives. After completion of these apartments, NYCHA will begin abatement of any ≤2 Component Apartment where a CU6 routinely visits. This work will be performed by the TEMPO Abatement Team which will be within Lead Hazard Control.

The TEMPO Abatement Team will retain and manage certified lead abatement firms to perform all abatement work, or use certified in-house lead abatement workers. Before the TEMPO Abatement Team commences abatement activities, it will perform paint chip samples on any component with metal or ceramic substrate to confirm that the component is actually positive for lead based paint. If the component is determined to be negative based on the results of the paint chip sampling, NYCHA will remove the apartment from the abatement universe, and apply for an exemption from HPD.

The date for completing all 4,755 apartments is October 31, 2022. If a significant number of apartments test negative through paint chip sampling, the abatement project could be complete sooner than this date. Note, if a CU6 no longer lives in or visits the apartment, the apartment will be removed from the TEMPO program.

The project will proceed on the following schedule:

Milestone	Date
Completion of Survey to Identify ≤2 Component Apartments Where Children Under 6 Live	February 28, 2021

Commence Abatement Activities in ≤ 2 Component Apartments Where Children Under 6 Live	May 15, 2021
Completion of Abatement Activities in ≤ 2 Component Apartments	October 31, 2022

NYCHA is planning to start with abatement activities in the ≤ 2 Component Apartments for several reasons. First, the ≤ 2 Component Apartments represent over 65% of the total population of CU6 apartments with confirmed positive components. Therefore, by fully abating these apartments, NYCHA will be addressing lead-hazards in the largest number of apartments, and at the same time significantly reducing its annual lead assessment requirements. Secondly, abatement in ≤ 2 Component Apartments is generally faster and less complex than apartments with more than 2 components. Abatement in these apartments is expected to only last 1 to 2 days, and will minimize the need for relocation. Third, NYCHA has had difficulty procuring a steady bench of abatement contractors and operationalizing a full scale abatement program. Starting its abatement program in the ≤ 2 Component Apartments presents the opportunity to build contractor and contract management capacity, as these projects tend to be more straightforward than projects with three or more components.

This expedited phase of the abatement program is only the first step. By December 31, 2021, NYCHA will provide plans for the next phase of abatement in CU6 apartments.

TEMPO Repair Team - Coordinated Construction Protocols and Enhanced Lead Paint Work Practices in Apartments with Three or More Components

There are currently 2,461 apartments where CU6 live or visit that have three or more positive lead components (“ ≥ 3 Component Apartments”). There are also 2,840 apartments where XRF testing has not been performed yet. These apartments will be presumed to be ≥ 3 Component Apartments until they are XRF tested. After the test, they will then be categorized as lead-free, ≤ 2 Component Apartments (and included in the TEMPO Abatement program), or ≥ 3 Component Apartments and remain in the TEMPO Repair program.

These numbers will also change as children are born, grow up or move out of apartments. Full abatement of these apartments will be challenging in 2021 until NYCHA builds more consistent abatement contractor and internal capacity for managing complex abatement projects. However, NYCHA can undertake the following measures to immediately improve the management of lead-based paint in those apartments where CU6 live.

One of the key risks to children from lead paint is during general construction and repair activities, which can generate lead-contaminated dust. This risk is increased if the construction or repair activities are not performed promptly, or if there are long delays between critical phases of the work. Additionally, while NYCHA has trained thousands of staff members on lead-safe work

practices, NYCHA has seen better lead work practice compliance, including cleaning and clearance, when the work is performed by a centralized team.

Therefore, NYCHA will utilize the TEMPO Repair Team to perform all work within ≥ 3 Component Apartments that could trigger lead safe work practices, including mold, leak, plaster, and general repair projects. The TEMPO Repair Team will also be responsible for correcting any lead-based paint hazard through interim controls identified through a visual assessment or risk assessment.

The TEMPO Repair Team will have the following dedicated members.

Team Leader	Supervisors	Maintenance Workers
Painters	Plasterers	Carpenters
Plumbers	Electricians	

All members of the TEMPO Repair Team will be RRP-certified and will go through an annual full one-day refresher on RRP protocols. Members of TEMPO Repair Team also will receive the HUD Visual Assessment Training so that they can identify and correct paint deficiencies when they are performing other work within the apartment.

Assignment of Work

NYCHA will build IT controls to ensure that any work that has the potential to disturb known or presumed LBP in ≥ 3 Component Apartments be assigned to the TEMPO Repair Team, including but not limited to work to correct paint deficiencies. The TEMPO Repair Team will have a supervisor overseeing all jobs to ensure that LBP protocols are always followed. The TEMPO Repair Team also will ensure the seamless transition between trades to reduce the amount of time that the worksite remains active and that lead safe cleaning protocols occur after every stage.

Additionally, when the TEMPO Repair Team is performing any work in the apartment, the TEMPO Repair Team will conduct a visual assessment to identify any deteriorated paint and ensure that the condition is properly corrected as part of the RRP Project.

Initial Foundational Work

- By June 30, 2021, NYCHA will complete XRF testing at the 2,840 apartments where CU6 live or visit that have not yet been XRF tested. Based on the results, these apartments will either be scheduled for abatement by the TEMPO Abatement Team, or enrolled in the TEMPO Repair Team program. If NYCHA is unable to complete the XRF testing, these apartments will still be included in the TEMPO Repair Program, as all components will be presumed positive.

- As mentioned below, NYCHA will continue to update the list of apartments subject to TEMPO Repair protocols on an every-other month basis. NYCHA will, within 3 months of identification of a new apartment, perform an XRF inspection of that apartment if it has not already been XRF tested or abated.

TEMPO Visual Assessment Team - Enhanced Visual Assessment Protocols for All Apartments with Presumed or Positive Lead Components Where Children Under 6 Live or Visit

Current federal and local law requires NYCHA to conduct one proactive visual assessment per year to identify deteriorated paint conditions. The TEMPO Visual Assessment Team - which will be in LHC - will enhance this protocol by performing two visual assessments per year in all CU6 apartments with presumed or positive lead components. This includes CU6 apartments where children live or visit. These assessments will be overseen by LHC to ensure separation between the team performing the annual inspection and TEMPO Repair Team, which will correct any deficiencies.

By increasing the number of visual assessments in TEMPO apartments, NYCHA will enhance its ability to identify and address LBP hazards. All individuals performing visual assessments must, at minimum, have completed the HUD Lead Paint Visual Assessment Training Course, or be a certified LBP inspector or lead risk assessor, and must have submitted their certificate to the Human Resources Department's Learning and Development Unit.

Additionally, under TEMPO, any resident can contact NYCHA's Customer Contact Center (CCC) and request additional visual assessments as needed. LHC will perform the visual assessment within 10 calendar days of receiving the request.

Performance Standards to Address Lead-Based Paint Hazards

If any visual assessment identifies paint deterioration and other specific conditions that may be LBP hazards, the TEMPO Repair Team will commence remediation of the LBP hazard within 21 calendar days of its identification.

Enhanced Clearance Protocols in CU6 Apartments

A clearance examination is performed after hazard reduction, rehabilitation or maintenance activities to determine if an apartment is free of LBP hazards, except when very small or "de minimis" amounts of paint are disturbed. Under the TEMPO program, NYCHA will perform clearance following all assigned projects and, through TEMPO, will address any instances in which lead dust hazards exceed federal and local lead dust hazard thresholds within the apartment. To ensure separation that is required between staff performing the work and staff performing the clearance, these clearance examinations will be overseen by LHC.

In all instances, prior to performing a clearance examination NYCHA shall have successfully completed post-renovation cleaning verification within the meaning of 40 CFR § 745.85(b) of the RRP Rule.

All clearance examinations will be conducted on the same calendar day that work concludes, and all samples for TEMPO Apartments will be prioritized with laboratories, with a performance goal of within 24 hours following sample collection.

NYCHA will restrict access to all areas where paint disturbing work is occurring and to all areas where paint disturbing work has been performed until it receives final clearance results. NYCHA will follow the practices for restricting access set forth in the 2012 HUD Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing, including closing the doors (and locking if feasible) in rooms where work was performed, using yellow construction area hazard tape, or covering components or access doors with a layer of plastic sheeting.

If access restrictions are needed for critical rooms such as bathrooms, kitchens, bedrooms, or hallways leading to these rooms in TEMPO Apartments, NYCHA will take the following measures, in consultation with the resident:

- **Same-Day Clearance:** NYCHA will seek to obtain same day clearance results when work is performed in these critical areas. However, as clearance results may not pass and laboratory processing times can vary, NYCHA will need to have an additional plan for resident protection for these areas.
- **Work Areas in Bathrooms and Essential Hallway Areas:** NYCHA will offer a hotel stay to residents if the paint disturbing work affects known or presumed LBP components in the bathroom and counsel those residents on the risks to children's health from remaining. Such counseling will include provision of a written form in a language spoken by the resident describing such risks, which form will be submitted to the Monitor for review and approval prior to use. If the resident refuses to accept the hotel stay, NYCHA will cover components on which work was performed with plastic sheeting and cover the floor with red rosin construction-grade floor covering as a temporary barrier. NYCHA will document the refusal with a form signed by the resident and uploaded onto the work order in Maximo.
- **Work Areas in Kitchens:** NYCHA will install a plastic barrier at the entryways to the kitchen if the work disturbs known or presumed LBP components in the kitchen. NYCHA will provide the resident with meal vouchers until the kitchen can be re-opened, likely by the next day.
- **Work Areas in Bedrooms:** NYCHA will use the following measures if work disturbs LBP components located in a bedroom. If safe access cannot be provided to the entire bedroom, NYCHA will consult with the resident about alternate sleeping arrangements within the apartment for the evening and counsel those residents on the risks to children's health from remaining in the bedroom. Such counseling will include provision of a

written form in a language spoken by the resident describing such risks, which form will be submitted to the Monitor for review and approval prior to use. If the resident does not have adequate sleeping arrangements in the apartment, NYCHA will provide a hotel stay instead. If the resident refuses either alternate sleeping arrangements in the apartment, or a hotel stay, NYCHA will use red rosin construction-grade floor covering to cover the floors in the work area and to cover the components with plastic sheeting. NYCHA will document the refusal with a form signed by the resident and uploaded onto the work order in Maximo.

If a clearance examination fails, NYCHA will attempt to reclean and perform a new clearance examination within 24 hours of receiving notice of the failed clearance. NYCHA will call the resident to inform them of the result and request that access be provided within 24 hours. If NYCHA does not gain access to the apartment, NYCHA will leave behind a letter instructing the resident to contact NYCHA as soon as possible to schedule the re-cleaning and clearance examination. NYCHA will also provide the required 48-hour notice and utilize its Right of Entry if necessary. NYCHA will repeat this process if the second clearance examination fails. If the resident has been temporarily relocated or restricted from kitchen areas, NYCHA will continue to provide a hotel stay or meal vouchers until clearance is achieved.

Enhanced Monitoring and Oversight

The EH&S unit will prioritize its oversight strategies to work orders assigned to TEMPO Repair and Abatement Teams to ensure that TEMPO is following RRP and abatement protocols at all stages of the job. EH&S will escalate any deficiencies immediately to the Chief Compliance Officer and the General Manager for immediate correction and disciplinary action with the responsible staff in TEMPO.

Enhanced Outreach to Residents

When an apartment is enrolled in the TEMPO Repair or Abatement program, that is, when NYCHA receives information that a CU6 resides in an apartment with known or presumed LBP, NYCHA will send a letter to the resident explaining TEMPO, the services it provides, and additional public health information regarding LBP and LBP hazards. The materials will include in prominent language how the resident can contact NYCHA should they observe any deteriorated paint conditions in the apartment. NYCHA will have consulted with HUD and DOHMH on the content of this outreach material.

Additionally, all notifications required by the LSHR, including Notices of Evaluation and Notices of Hazard Reduction, will include information on how residents of TEMPO apartments can obtain low- or no-cost blood lead testing for their children.

Outreach to Expecting Parents

Exposure to LBP Hazards during pregnancy can harm both the fetus and mother, increasing the risk of miscarriage, causing birth defects and leading to learning and behavior problems in children. As part of its general outreach materials on the TEMPO program, NYCHA will encourage an expecting parent to contact NYCHA to obtain information on the lead status of their apartment and their development. If the expecting parent who contacts NYCHA to obtain this information lives in an apartment with known or presumed LBP, NYCHA will enroll them into the TEMPO program on the next monthly update (see below). This aspect of the TEMPO program will begin by September 1, 2021.

Updating TEMPO Apartments

NYCHA will update the list of apartments that are subject to TEMPO protocols every other month. However, should a resident report a child younger than six residing in their unit and request a visual inspection, NYCHA will adhere to TEMPO’s protocols in performing the assessment and the corrective action.

Action 2 – Identification of Children Under Six in All NYCHA Apartments

Agreement Primary References: Exhibit A, ¶¶ 2, 4, 5, 15, 16, 17, & 30

Full implementation of the TEMPO program will require NYCHA to identify all apartments where CU6 live or visit in NYCHA developments with known or presumed LBP. As the number of CU6 residing in NYCHA buildings changes, NYCHA will employ an ongoing strategy for identifying these children and then enrolling their apartments into TEMPO.

There are two main ways for NYCHA to identify a child younger than six residing in their developments: LL1/2004 Annual Notice and the residents’ Annual or Interim Recertification. NYCHA will improve outreach, messaging, and implementation around both methods to more robustly identify children younger than six residing at its developments.

LL1/2004 Annual Notice Enhancements

LL1/2004 requires NYCHA to send an annual notice in January of each year to ask residents to identify whether a child younger than six resides in their apartments. In 2019, the City Council passed a new law that expanded the term “resides” to children under 6 who live in the apartment or children under 6 who routinely visit the apartment for 10 or more hours per week. This new law went into effect in 2020, and NYCHA updated its survey forms to comply with the new, more expansive requirement.

Under LL1/2004, if NYCHA does not receive a response by February 15, NYCHA must visit the apartment to ascertain whether a child younger than six resides in the apartment. In 2020, NYCHA

conducted door-knock surveys in over 48,000 apartments. In conducting this survey, NYCHA looked for CU6 who live in the apartments or who routinely visit for more than 10 or more hours per week.

NYCHA also launched a campaign to encourage residents to complete and return the annual notice. The Department of Communications spearheaded the communications plan, including promotion in the Journal and on the website, providing outreach materials to property management offices, posting outreach materials in building lobbies, and inserting a flyer into the annual LL1/2004 child residency survey. The Department of Community Engagement and Partnerships (CEP) enhanced this effort by conducting direct outreach to Tenant Associations on the annual notice requirements.

For all units where NYCHA household composition data did not indicate the presence of a child under six, NYCHA began conducting door-to-door visits on March 2, 2020, to inquire whether a child younger than six resides in the unit. NYCHA captured this information using a digital survey tool, which included specific questions mirroring the information requested in the annual notice. Due to COVID-19, the project was paused in the spring and was completed in August 2020.

As expected, these efforts resulted in NYCHA identifying significantly more apartments with children younger than 6. NYCHA identified 10,391 apartments with children under 6 in apartments with presumed or positive lead-based paint components.⁵

NYCHA utilizes the Asset Management System, Maximo, and the Customer Relationship Management system, Siebel, to manage and track work orders and customer relations. All data collected on dwellings with children younger than six was updated in Siebel, and will be transferred into Maximo by February 28, 2021. Each apartment where a CU6 lives or routinely visits will be added to the TEMPO program described in Action 1 unless NYCHA determines that the apartment does not have LBP through XRF testing and/or paint chip analysis.

NYCHA will continue this outreach strategy every year in advance of the LL1/2004 annual notice and will launch awareness campaigns around these efforts by December 15 each year. Each year's campaign will be focused on ensuring residents are aware of the annual notice requirements, however, the content of the informational materials may vary from year to year.

As described in Action 1, NYCHA will also work with DOHMH to improve the Annual Notice to distinguish between apartments where children live versus visit. The form is legally required and DOHMH must approve any modifications to this form.

⁵ NYCHA identified an additional 10,579 children under 6 who live or visit apartments that are considered negative under federal law, but still regulated by LL1/2004 until NYCHA receives an exemption from the New York City Department of Housing Preservation and Development.

Distinguishing between where children live versus visit is important for two reasons. First, NYCHA wants to have an accurate understanding of where children under 6 live in the developments. The data collected through the Annual Survey in 2020 in many ways conflicted with the household composition data that NYCHA collects through its annual recertifications. NYCHA wants to harmonize these data sets to have a more accurate picture of its household composition. Second, as discussed in Action 1, NYCHA will be prioritizing apartments where CU6 live for expedited abatement and for the coordinated construction program.

By February 28, 2021, NYCHA will provide the Monitor with an ongoing resident engagement plan around these requirements with details on how this information will be provided to community centers, senior centers, day cares, development offices, and other avenues for engaging with NYCHA residents.

Updating Household Composition Data - Annual Recertifications and Interim Recertifications

Per HUD regulations,⁶ residents must provide household composition data and must certify to its accuracy. Tenants can either certify online or by submitting a paper form. NYCHA allows tenants to add a new permanent or temporary household member at any time during the year if the proposed additional member is eligible and NYCHA's policies are met. Tenants use NYCHA Form 040.297D, Request to Add a New Household Member (Permanent/Temporary). New or transferring tenants must certify to their household composition at the time that the tenant signs the new lease.

NYCHA Property Management will modify existing relevant forms, or include supplemental information with these forms, to ensure that residents understand the importance of disclosing children younger than six years old in their annual or interim recertifications.

Additionally, for some types of housing such as senior housing, disclosure of a child residing in the apartment may affect the primary resident's eligibility for that apartment. NYCHA will work with HUD to address any policy or legal issues that may arise if children are disclosed in senior housing. NYCHA will seek HUD guidance on this issue by May 31, 2021. NYCHA will not establish any policy on this issue without written permission from HUD.

Action 3 – Create a Comprehensive Lead Safe Housing Standard Procedure

Agreement Primary References: Exhibit A

NYCHA has drafted an end-to-end standard procedure manual to ensure compliance with all aspects of the HUD-EPA Lead Disclosure Rule, the Lead Safe Housing Rule, the EPA Renovation, Repair, and Painting Rule, the Lead-Based Paint Activity Rule, and Local Law 1. The Compliance

⁶ See 24 CFR Part §960.259.

Department issued the initial manual on January 21, 2020 and an updated version of the manual in September 2020. The most current version of the manual is annexed as Appendix C. The manual incorporated comments received from the Monitor and federal agency stakeholders. The manual is critical to NYCHA's efforts to comply with the requirements set forth in the Agreement, as there was not an end-to-end procedure manual on LBP operations at NYCHA.

Issuance of Manual

NYCHA finalized the manual and posted it to the Forms and Reference Library on January 21, 2020. NYCHA required employees who will use the manual in their day-to-day work tasks to acknowledge receipt of the manual on the My Acknowledgements page of NYCHA Connect, including but not limited to:

- All employees in the LHC
- All Executive-level employees
- Employees in the Operations Property Management Departments, including regional asset managers, property management development office employees, and maintenance workers
- Relevant employees in the Management and Planning Department
- Relevant employees in the Operations Maintenance, Repairs, and Skilled Trades Department

For its first effort, NYCHA received acknowledgments from a limited number of employees. NYCHA will initiate a second effort to obtain the remaining acknowledgments by February 28, 2021.

Training on the Manual

LHC will begin training relevant employees on the manual by February 28, 2021 and conclude the training by April 15, 2021. After that, refresher trainings for LHC staff will be scheduled for once per year.

- LHC supervisors and subject matter experts will receive "train the trainer" instructions.
- The supervisors and subject matter experts will train employees in the sections of the standard procedure that are relevant to their areas of responsibilities.
- LHC will retain all training modules and sign-in sheets from training sessions.

The Compliance Department will distribute hard copies of the manual to LHC employees to ensure they can use it as a reference at their desk while performing their daily functions.

Prompt Revisions of the Manual

As NYCHA develops new IT controls around LBP, obtains more data through its XRF initiative, and starts new large-scale projects such as the painting of interior common areas, it is highly likely that protocols and controls will need to be updated to keep pace with the changes. Additionally, NYCHA may need to make changes based on changes to federal, state, or local laws. To ensure that this occurs, by June 30, 2021, the Compliance Department will complete a review of the manual with the business units with any updates due to the new processes. Also, the Compliance Department will work with other Departments to streamline procedures and simplify the overall manual.

Quick Reference Guides to Enhance Use of the Manual

The Lead Standard Procedure manual covers several different operational areas across NYCHA Departments. To ensure that each unique end-user group understands the Manual, NYCHA created Quick Reference Guides (QRGs), including pocket size guides for field personnel, for key sections of the manual. NYCHA will distribute the QRGs to the appropriate unique end-user groups, also posting them on the FRL. Copies of the QRGs are annexed as Appendix D.

Action 4 – Implement a Lead Compliance Assurance Plan

Agreement Primary References: Exhibit A, ¶¶ 2, 14 – 18, 30 – 33.

An essential component of NYCHA’s compliance is oversight of all lead activities to identify non-compliance with requirements and to develop actionable strategies to prevent or correct these exceptions. To do this, the Compliance Department and EH&S implemented a Lead Compliance Assurance Program (LCAP) to conduct field and documentary monitoring of LBP activities performed by LHC and Operations. LHC also will take the primary role in ensuring that quality assurance is performed on the lead paint inspections being performed as part of the XRF Initiative. Oversight activities will include field compliance and documentary compliance monitoring for visual assessments, lead paint inspections, risk assessments, interim controls, renovations, abatements, clearance examinations, and required checklists.

Field Oversight Activities

EH&S, through its Lead Oversight Team (LOT), conducts oversight of the following LBP activities with the minimum expected frequency:⁷

Activity	Minimum Frequency
RRP/Interim Control Projects	10 Projects Per Week

⁷ EH&S established the frequency of inspections based on Slovin’s Formula. Slovin's Formula is used to calculate the sample size (n) given the population size (N) and a margin of error (e). It is computed as $n = N / (1+Ne^2)$.

Abatement Projects	6 Projects Per Week
Clearance Examinations	10 Projects Per Week

Additional QA/QC Monitoring by LHC for Vendor Performed Work

To supplement the field oversight activities of EH&S, LHC will conduct its own QA/QC field observations of vendors performing lead inspections using XRF analyzers.

With respect to lead inspections, LHC, through its QA vendor, will perform field observations of XRF lead inspectors/risk assessors. The field observations will include, but not be limited to:

- Ensuring XRF vendors conduct their own supervisory inspections of their lead inspectors/risk assessors in accordance with the regulatory requirements.
- Performing field observations of the XRF vendor lead inspectors/risk assessors. This will include accompanying and observing the lead inspectors/risk assessors as they perform the XRF inspections to ensure that such inspections are performed in accordance with the regulatory requirements. An observation will be made at least once per week of each individual lead inspector/risk assessor that the observers are assigned to observe.
- Ensuring that every XRF lead inspector/risk assessor is qualified and has the appropriate training and certifications.
- Reviewing the XRF vendor’s required reports, submissions, and deliverables set forth in the XRF scope to ensure they meet the contract requirements.

All field observations will be documented appropriately, as will any corrective actions based on the field observations.

Documentary Monitoring

In addition to oversight of field activities, a critical component of LBP compliance is also ensuring that notices, protection plans, checklists, licensure, and clearance documentation are maintained for each project as required. To ensure that staff in LHC and Operations adhere to these requirements, the Compliance Department is responsible for performing ongoing monitoring of documentary requirements. These activities will evolve over time, but at minimum will consist of the following:

- Documentary Compliance for RRP/Interim Controls: The Compliance Monitoring Unit reviews up to 100 RRP/interim control work orders per month to ensure that the pre-

acknowledgment form, renovator checklist, and dust wipe results are included and properly filled out.

- Documentary Compliance for Abatement: The Compliance Monitoring Unit reviews a representative sample of closed abatement files and/or EBLL case compliance.

LCAP, Escalation and Periodic Reporting

The Compliance Department, EH&S, and LHC will immediately escalate any significant deficiencies or exigent health and safety issues to the GM and other Senior staff in Operations and Healthy Homes.

The Compliance Department and EH&S issue a semimonthly overall report on lead compliance concerns (“Lead Exceptions Report”). Since November 2018, Compliance and EH&S have issued nine Lead Exceptions Reports. In 2021, Compliance and EHS will produce four Lead Exceptions Reports by the following dates:

- March 31, 2021 – 10th Lead Exceptions Report
- May 31, 2021 – 11th Lead Exceptions Report
- September 30, 2021 – 12th Lead Exceptions Report
- November 30, 2021 – 13th Lead Exceptions Report

The Lead Exceptions Report provides an overview of compliance trends and exceptions to compliance, and is provided to the Monitor, Chair, General Manager, Executive Vice-President of Operations, Vice-President of Healthy Homes, and Director of Lead Hazard Control. The Lead Exceptions Report includes:

- The status and metrics on high priority lead workstreams such as visual assessments, biennial risk assessments, and interim controls.
- A summary of any unresolved deficiencies identified through field and documentary monitoring.
- The status of any corrective actions, including directives to staff and NYCHA vendors.
- Narrative progress updates on any Compliance monitoring projects related to 24 CFR Part 35 compliance and/or 40 CFR Part 745 compliance.
- Updates on any projects intended to enhance NYCHA’s compliance with 24 CFR Part 35 and 40 CFR Part 745.

NYCHA’s business units have at least 14 calendar days to respond in writing to the Compliance Department on any purported deficiencies set forth in the Lead Exceptions Report, including a status update on all identified deficiencies or recommended corrective actions. The purpose of the Lead Exceptions Reports and the written response is to ensure that senior officials are aware of and responding to risks and areas of lead non-compliance on an ongoing basis. This consistent

focus on compliance will result in more expeditious resolution of any compliance concerns. A copy of each Exceptions Report will be provided to the Monitor.

In addition to the Lead Exceptions Report, Compliance and EH&S also produce a report documenting the status of compliance with the abatement and lead safe work practice rules, pursuant to paragraph 30(b) of the HUD Agreement. These reports are due on January 31 and July 31 of each year. NYCHA will post on its website the reports required by paragraph 30b of the HUD agreement.

Action 5 – Enhance Information Technology Functions to Support Lead-Based Paint Compliance

Agreement Primary References: Each project references a specific agreement paragraph
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The complexity of appropriately managing LBP issues requires a comprehensive IT approach. Better IT controls ensure that NYCHA oversees work appropriately. IT controls also ensure that only staff with the correct certifications perform that work. IT enhancements also enable NYCHA to keep better records and provide information to residents and workers about the specific location of LBP in apartments and common areas. NYCHA has developed a group of IT projects that will improve its ability to comply with LBP rules and requirements. These projects are summarized below. The NYCHA Department of Information Technology also will play an ongoing role in LBP compliance, as more apartments are tested and abated as part of the XRF Initiative and the Agreement. NYCHA is endeavoring to complete the XRF initiative in 2022. To date, NYCHA has completed inspections in more than 62,000 units, and the XRF initiative began with units in 92 developments which were presumed to have higher lead-based paint levels in units, based on results from HUDs random sampling methods.

IT Project Plan

In 2020, NYCHA IT conducted the following projects to assist NYCHA’s LBP compliance programs. Each project is associated with a provision of the HUD Agreement.

IT Enhancements for LBP Disclosure and Resident Notification Requirements

- NYCHA enhanced an existing internet-based portal for residents to access lead-related forms and information. When residents sign into the NYCHA Self-Service Portal, they can access the following Forms: *Lead-Based Paint Apartment Disclosure Summary*, *Lead-Based Paint Development Disclosure Summary*, and *Protect Your Family From Lead In Your Home*. This project is connected to Action 8 and the Agreement, Exhibit A, ¶¶ 27 – 28.
- NYCHA deployed an automation in Siebel that will create and issue a key resident notification called the *Notice of Hazard Reduction Activity*. The IT platform has been

constructed and has undergone testing to ensure the notices generated by the system are accurate. Automating the issuance of these forms will ensure more accurate and timely recordkeeping. This project is connected to the Agreement, Exhibit A, ¶ 15(g).

IT Enhancements for Apartment-Related LBP Activities

- NYCHA implemented a new Maximo desktop and handheld platform that will allow NYCHA staff and vendors to identify specific components that have or do not have LBP based on the data from the XRF Initiative in apartments. This should ensure better application of RRP protocols. If the XRF inspection results are not available for an apartment—and the presence of lead paint was not ruled out pursuant to prior random sample testing under HUD protocols, prior negative XRF inspections or abatement—then the entire unit will be presumed to have LBP. The data will be updated, on a rolling basis, as XRF inspection results become available. IT and Compliance created a training module that was administered to RRP-certified staff. This project is connected to Agreement, Exhibit A, ¶¶ 15 and 30.
- IT created the platform in Maximo necessary to route all interim controls and RRP work to the TEMPO program (see Action 1). This project is connected to Action 1 and related to the Agreement, Exhibit A, ¶¶ 4 – 5, 15. By February 28, 2021, IT will modify this platform to address the revised version of TEMPO included in this action plan. See Action 1.
- IT created the ability for NYCHA to automatically remove RRP flags for an apartment when the apartment tests negative as part of the XRF initiative. This process – which includes a QA component described in Action 4 to ensure that the XRF test is accurate – helps remove onerous work restrictions that apply to apartments with suspected LBP when those restrictions are confirmed to be unnecessary. This project is connected to Agreement, Exhibit A, ¶¶ 15 and 30.

IT Enhancements for Interior Common Area LBP Activities

- NYCHA implemented a work order creation protocol for completing interim controls and/or abatement of interior common areas. This protocol was informed by lessons learned from pilot projects performed in Pink Houses and Gowanus Houses. This project is connected to the Agreement, Exhibit A, ¶¶ 16 – 17.
- IT incorporated all component level XRF data available for interior common areas into Maximo. LHC employees relied on paper documents to document the results of XRF tests performed in common areas. Digitizing this information allows LHC to more efficiently plan for remediation and abatement projects in interior common areas. This project is connected to the Agreement, Exhibit A, ¶¶ 15 – 17.

IT Enhancements for all RRP Work

- NYCHA established a new Maximo desktop and handheld version of required pre-renovation acknowledgment forms and post-renovation checklists. These checklists are required for RRP work in apartments and interior and exterior common areas. Making these processes electronic ensures more accurate and timely recordkeeping. NYCHA will provide a report to the Monitor on the success of these enhancements. The report will be included in NYCHA's March 31, 2021 Lead Exceptions Report. This project is connected to the Agreement, Exhibit A, ¶¶ 15(e)(f) & 30.

IT Enhancements for Abatements

- NYCHA implemented IT controls for abatement projects to ensure the onsite presence of a lead abatement supervisor during set up and clean up, ensure the auto-generation of dust wipe work orders, and prevent closeout of move out and abatement work orders until clearance is achieved. This project is connected to the Agreement, Exhibit A, ¶ 14.
- NYCHA has enhanced abatement work orders in Maximo to capture the method of abatement and the square footage of abatement. This enhancement will greatly improve NYCHA's ability to track its abatement projects and provide information to residents about the type of abatement in their apartments. This project is connected to the Agreement, Exhibit A, ¶ 14.

IT Enhancements for Clearance Examinations

- NYCHA developed an electronic tracking system to track all dust wipe samples sent to labs and develop protocols with laboratories to receive sample results as quickly as possible after obtaining the sample. This project is connected to the Agreement, Exhibit A, ¶¶ 14(e), 15(j), and 30.

IT Enhancements for EBLL Requirements

- Depending on the consent of DOHMH, NYCHA will work to create automated data exchanges with DOHMH to expedite notifications on new EBLL cases. This automated process will ensure more prompt notification for HUD and more efficient management of EBLL cases. This project is connected to Agreement, Exhibit A, ¶¶ 14(e), 15(j), and 30. By February 28, 2021, NYCHA will send a written request to DOHMH to create these automated data exchanges. As part of this request, NYCHA will request a proposed schedule for making such enhancements.

IT Enhancements for Biennial Risk Assessments

- NYCHA developed a work order system for biennial risk assessments. This is a complex project and NYCHA is still enhancing the system to automatically generate certain work orders related to biennial risk assessments and to address lead paint hazards identified by risk assessments. These enhancements were completed in December 2020. This project is connected to the Agreement, Exhibit A, ¶ 18.

Lead Oversight Activities

- IT completed all new inspection work orders that EH&S uses to document its field oversight activities. These inspection work orders will be for RRP Projects (in place as of October 31, 2019), abatement projects (in place as of November 30, 2019), and clearance examinations (in place as of December 31, 2019). This project is connected to Action 4 and Agreement, Exhibit A, ¶¶ 14, 15, and 30.

Ongoing Coordination with NYCHA IT

IT, LHC, and the Compliance Department have a standing meeting at least twice per month to develop or revise applications, dashboards, and reporting to ensure Maximo workflows and applications comply with the Lead Safe Housing Rule and EPA Rules. IT will maintain and update a project tracker with all LBP projects and provide the Monitor updates on IT projects as part of the Lead Exceptions Report described in Action 4 above.

Action 6 – Conducting Biennial Risk Assessments

Agreement Primary References: Exhibit A, ¶ 18

Pursuant to Paragraph 18 of Exhibit A of the HUD Agreement, “Within two years of the execution of this Agreement, NYCHA shall conduct risk assessment reevaluations of all NYCHA housing that contains lead-based paint in accordance with 24 C.F.R. § 35.1355.” Risk assessments must be performed by certified risk assessors and entail a review of existing information about the development and an onsite assessment of paint conditions, prior hazard reduction activities such as abatement or remediation, dust, bare soil, and exterior and interior common areas. While the scopes of the risk assessments may vary dependent upon the prevalence and location of known or presumed LBP at a development, this project will entail risk assessment reevaluations at an estimated 277 developments. If hazards are identified, NYCHA will need to conduct interim controls or abatement of the hazards in accordance with 24 CFR § 35.1120.

Procurement and Contract Administration

NYCHA retained qualified vendors to perform the risk assessment reevaluations in accordance with Chapter 5 of the 2012 HUD Guidelines. LHC is responsible for managing these vendors and

ensuring that they are adhering to all contract specifications, particularly on reporting and utilization of Maximo.

Maximo Enhancements to Administer Project

As set forth in Action 5 above, LHC worked with IT to implement a work order creation and tracking process using Maximo.

Tracking and Reporting

LHC has created an overall project plan and schedule for implementing the risk assessment reevaluations. Due to COVID, LHC completed the risk assessments of exteriors and interior common areas, with the exception of the FHA homes. LHC is now performing targeted in-apartment risk assessment work.

In all, 239 developments required biennial risk assessments, NYCHA has completed all exterior and interior common area work, with the exception of the FHA homes, which are underway. NYCHA is now conducting in-unit work in 5,312 apartments across the 239 developments. The scope of each risk assessment varies depending on the location of positive components in the developments.

NYCHA will produce final risk assessment reports for all developments by March 31, 2021. NYCHA will then craft development-specific O&M Plans based on the results of the risk assessments. The development-specific O&M plans will be completed by December 31, 2021.

Going forward, NYCHA will perform risk assessment reevaluations with the frequency required by 24 C.F.R. § 35.1355.

Action 7 – Lead Training for Employees

Agreement Primary References: Exhibit A, ¶¶ 15, 30, and 33
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The LSHR and the EPA Rules require that staff who perform visual assessments, inspections, RRP work, and abatement be trained and certified, and that these certifications are tracked and kept current. The Occupational Safety and Health Administration (OSHA) provides standards and regulations covering workers dealing with lead containing surfaces. Workers who disturb paint when repairing, maintaining or renovating must be trained in EPA/HUD-approved work practices and must be certified by EPA or work under an EPA-certified individual. NYCHA will also ensure that workers have the appropriate health and safety trainings. Training also increases NYCHA's overall awareness and compliance with LBP requirements. For instance, over the past two years, NYCHA has trained approximately 3,000 maintenance and skilled trades workers in multiple titles on RRP compliance - as a result of this training, NYCHA's compliance with the requirements has improved significantly. Therefore, training on LBP requirements will be enhanced as part of this Action Plan, particularly for staff in LHC.

LHC Training Program

LHC will administer the following training programs to its staff in 2021:

- By April 15, 2021, all staff in LHC will receive two-hour training on the Lead Standard Procedure Manual. The training will be performed in-house by Compliance and the Directors of Healthy Homes and LHC. Records of training will be maintained by Compliance. (See Action 3)
- All staff (excluding administrative personnel) will take the HUD visual assessment training and all technical staff will receive EPA Lead Inspector training or risk assessor training. Staff will complete this training by June 30, 2021. All new technical staff in LHC will receive this same training.

LHC recently retained a third-party training firm to provide additional lead trainings including for certifications for dust wipe technician, inspector, risk assessor, lead abatement worker, lead abatement supervisor, and project designer. By March 31, 2021, LHC, in consultation with Compliance and HR, will designate staff to receive these additional trainings.

By December 31 2021, LHC will provide ongoing training protocols to cover the years 2022 and 2023. This training program will evaluate which trainings, as described above, were most useful to staff.

Ongoing RRP and Visual Assessment Training for Staff in Operations

NYCHA will maintain its current RRP and visual assessment training protocols and initiate new training protocols to strengthen its lead-based paint practices.

- The Human Resources Department Learning and Development Unit will continue to employ vendors to train maintenance workers and skilled trades on RRP and ensure that these staff are RRP-certified. Barring any delays caused by the pandemic, all

relevant new hires must complete this training within 30 days of their start date. The Human Resources Department will continue to create a weekly summary completion report that tracks the percentage of employees in applicable titles who have received RRP training, both in the classroom and on-site.

- The Department of Operations will continue to train maintenance workers on HUD visual assessment protocols. This training is provided online by HUD. All relevant new hires must complete this training within 30 days of their start date. The Human Resources Department creates a weekly summary completion report that tracks the percentage of employees in applicable titles who have received HUD lead-based paint visual assessment training. All LHC staff will take the HUD Visual Assessment training by April 15, 2021.
- By October 31, 2021, the Human Resources Department Learning and Development Unit, in collaboration with Compliance, will initiate a two-hour online internal refresher training program for RRP-certified personnel. This internal refresher cannot be used to review the staff member's RRP certification. RRP certifications are valid for five years; in 2022, the first NYCHA employees who completed RRP training will need to be recertified.
- On December 1, 2020, Compliance initiated a training program for property managers and other administrative staff on lead disclosure requirements at the initial lease signing and renewal, as well as lead recordkeeping requirements. This also is discussed in Action 8 below.

Action 8 – Implement Methods to Comply with the Lead Disclosure Rule

Agreement Primary References: Exhibit A, ¶¶ 27 – 29

The LDR issued jointly by HUD (24 CFR part 35, subpart A) and EPA (40 CFR part 745, subpart F) requires NYCHA to disclose possible or known LBP and LBP hazards to prospective residents prior to signing their initial lease, renewing a lease with changed lead-based paint conditions, or transferring to a new unit, and requires that existing tenants be informed about any updates to the LBP status of their apartment upon annual recertification. The HUD Agreement requires that NYCHA have the necessary records and reports available to prospective or current residents both online and in paper format. The LDR applies to sale or lease of housing built before 1978. As set forth below, this action will achieve compliance with this requirement through a combination of IT enhancements, training, and ongoing monitoring.

IT Enhancements

As discussed in Action 5, NYCHA upgraded its existing online portal for residents to provide updated information about the presence of children age 6 and below. The resident can update this

information upon their annual recertification. The resident also can review this information through the year at their convenience. NYCHA completed this enhancement on January 17, 2020.

Training and QRGs

Understanding both the purpose and the requirements of the LDR, as well as disclosure requirements under LL1/2004, is an important subject area for NYCHA Property Management staff. Therefore, NYCHA's Operations Department and Compliance Department will collaborate on a 30-minute online training (with proof of attendance) for designated Property Management staff to understand these requirements and their obligations under the Agreement. This training will be a requirement for current staff and new hires, and an annual refresher training will be required for all staff. This training also can be used as a reference point should Property Management Staff seek guidance about these requirements. NYCHA implemented the online training in December 2020.

In addition to this training, as referenced in Action 3 above, the Compliance Department created Quick Reference Guides (QRGs) for the Manual, including separate QRGs on the Lead Disclosure Rule.

Ongoing Monitoring

Compliance, EH&S, and Operations will undertake a three-pronged, coordinated approach to monitoring for compliance with the Lead Disclosure Rule.

- As part of its onsite monitoring program, the Compliance Department will perform ongoing monitoring of tenant files to ensure that paper copies of all materials are maintained in the files. There will be 24 monitoring events before December 31, 2021. Any compliance observations or concerns will be set forth in the Onsite Monitoring Reports.
- As part of the onsite field monitoring under the Lead Compliance Assurance Program (detailed in Action 4), EH&S will also conduct visits to development offices to ensure that the required lead disclosure records are maintained in the development offices. EH&S observations or concerns are set forth in the Lead Exceptions Report or Onsite Monitoring Reports.

- By June 30, 2021, Regional Asset Managers (RAM) will perform documented quarterly recordkeeping inspections of their developments for LDR compliance and report the results of these inspections for each of their developments each quarter. This review will include ensuring that new leases and renewals contain the required information and that the paper files at the development are complete. These inspections will be documented in either Maximo or a comparable digital application.

Action 9 – PACT Lead Compliance Monitoring Program and Assessment of Capital Contract Specifications

Agreement Primary References: ¶ 15; Exhibit A, ¶¶ 2, 30

Paragraph 15 of the Agreement states that “[i]f, due to a conversion program an apartment unit, common area, residential building, or building site is no longer operated by NYCHA and receiving funds through Section 9 of the Housing Act, then the obligations of this agreement shall no longer apply as to those conversions as of the closing of the applicable transaction, except that, with regard to transactions closed more than six months after the Effective Date, NYCHA shall ensure that, during the construction period, the project developer abates lead-based paint in compliance with the lead abatement standards of 24 C.F.R. § 35.930(d), regardless of the dollar value of rehabilitation. Following abatement, NYCHA shall provide to the Monitor a clearance report pursuant to 24 C.F.R. § 35.1340(c).”

To ensure consistency of the enhanced management of LBP for its public housing program, NYCHA proactively will review its policies, procedures, specifications, and ongoing compliance assurance program for its Rental Assistance Demonstration real estate program known as Preserving Affordability Commitment Together (PACT) and for its planned capital projects. The overarching goal is to have one cohesive policy with respect to LBP across its public housing portfolio, as opposed to inconsistent commitments and requirements for various programs.

To achieve this goal, NYCHA established a working group with representation from Compliance, Real Estate, Capital, Healthy Homes, Intergovernmental Affairs, Law, the Chair’s office, and the General Manager’s office. The working group produced a white paper regarding LBP requirements for PACT projects, including policies that pertain to pre-rehabilitation testing requirements, LBP abatement requirements, and post-rehabilitation Operations & Management plan requirements. More specifically, the white paper addresses the following issues:

- Requirements for pre-construction design review for abatements in PACT to ensure the project’s design specifications fully capture abatement in work scopes when appropriate.
- Requirements for a construction monitoring plan during PACT rehabilitation activities, including ensuring all lead safe practices are being followed.

- Requirements for post-abatement documentation of PACT compliance with rules and regulations, including the requirement to provide clearance reports to the Monitor of abatements under paragraph 15 of the Agreement.
- Requirements for monitoring any ongoing operation and maintenance plan for PACT, if the developer utilizes methods such as encapsulation or enclosure.

The white paper for CPD projects is still under development. It addresses, among other things:

- For capital comprehensive modernizations projects, review of HUD Guidelines for comprehensive modernizations and to determine which NYCHA projects meet that definition.
- For capital projects, review of all relevant specifications to ensure they match NYCHA’s current policies and procedures with respect to LBP and to ensure that the specifications evaluate abatement when either required or within the possible scope of a rehabilitation project.

The Monitor and HUD will be invited to attend the meetings of the working group and review drafts of the white paper. The white paper for Real Estate has been submitted to the Federal Monitor and Southern District of New York for review. Once comments are received, the white paper will be presented to the Chair for review and implementation. The white paper for PACT projects will be presented to the Chair by February 28, 2021.

The White Paper for Capital Projects will require approximately two months of additional work before finalization. The Monitor has provided comments and NYCHA will consider SDNY comments upon submission. The CPD white paper will be finalized on or before March 31, 2021.

Action 10 – Complete the New York City Department of Housing Preservation and Development Exemption Process for All Developments

Agreement Primary References: Exhibit A, ¶ 3
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To ensure that NYCHA has a unified strategy on LBP, NYCHA must ensure that its apartments meet the requirements for both federal law and LL1/2004. While federal law allows a public housing authority like NYCHA to rely on the lead inspector's report, LL1/2004 imposes a significant additional level of applying and receiving an exemption for the apartment or development from the New York City Department of Housing Preservation and Development (HPD). If NYCHA does not apply for and receive these exemptions, NYCHA will continue to expend resources to comply with local LBP requirements even after an apartment has tested negative for LBP. This not only exhausts critical resources, but also confuses and inconveniences residents whose apartments test negative for LBP. Therefore, while this Action Plan is predominantly focused on NYCHA's obligations under federal law, receiving HPD exemptions for these apartments is essential to NYCHA's long-term goal of clarity and cohesion on LBP requirements.

Currently, NYCHA has a backlog of apartments that tested negative for LBP but for which NYCHA does not have HPD exemptions. There are over 10,000 apartments where children under 6 live or visit that are considered negative but do not have an HPD exemption. This backlog will continue to grow as NYCHA continues to identify LBP negative apartments through the XRF initiative. To ensure that NYCHA addresses both the backlog and the expected number of new apartments that will qualify for the apartment exemption, NYCHA will undertake the following actions:

- By February 28, 2021, NYCHA will establish a subunit in LHC that will be responsible for working with HPD regarding exemptions and addressing any comments or questions from HPD's technical review staff.
- Starting May 1, 2021, LHC will establish a benchmark number of exemptions applications per month and begin submitting that benchmark number each month to address the current backlog. LHC will establish a method to track and monitor the applications, and to identify issues identified by HPD staff in their technical review. LHC will establish a performance standard of responding to any HPD comment or request for information in 30 days from the date such comment or question is received, and track and escalate any comment or question response to the Director of Healthy Homes and the GM's Office.
- Upon receipt of an exemption from HPD, the IT Department will create a flag for Maximo work orders that will allow apartments to be designated as "lead-free" or "lead-safe" based on the HPD exemption category.
- By June 30, 2021, LHC will establish a digital record-keeping system for exemptions and ensure that Maximo has a link to any exemptions. LHC also will provide a copy of the exemption to the current resident and update the Siebel online disclosure portal with a copy of the exemption.

Action 11 – Lead Vendor Compliance Portal for Vendor Staff Certifications and Other Required Documents

Agreement Primary References: Exhibit A, ¶¶15(b) and 30

It is essential that vendors and vendors' staff who perform paint disturbing work in developments with known or presumed LBP follow the Lead Safe Housing Rule and the EPA Rules. Of paramount importance is the need for the vendors to have their EPA firm certification under the EPA RRP Rule and that all vendor staff have the EPA RRP certification. This action intends to strengthen existing controls around vendor performed work.

- NYCHA established a portal, accessible to Compliance, Management and Planning, EH&S, Property Maintenance Superintendents, and Assistant Property Maintenance Superintendents. The portal will include the name of all NYCHA vendors with RRP Firm certificates and a copy of the firm's certificate. Any NYCHA staff responsible for initiating vendor-performed work will use only vendors from this list for the performance of any RRP work.
- NYCHA sent communications to major vendors performing RRP work requiring the vendor to provide a list of employees that have the EPA renovator certification and copies of those employees' certificates. The vendors contacted by Compliance complied with this request.
- NYCHA has created an enhanced web form where vendors must supply required information regarding worker certifications and supply records regarding their status. NYCHA's compliance department will be actively monitoring these submissions.
- By February 28, 2021, NYCHA will contact additional vendors that may perform RRP work and have them tracked in the portal.
- By March 1, 2021, NYCHA will require vendors to update this portal on a monthly basis as they update their staffing rosters.
- By March 1, 2021, Property Maintenance Superintendents and Assistant Property Maintenance Superintendents will collect RRP certifications from vendors at the development if they are assigned to RRP work orders. PMS and APMS will keep a file of these certifications and make the documents available if monitored by Compliance or EH&S.
- As part of the LCAP discussed in Action 4, during its onsite field observations, EH&S also will request that any vendor staff member performing work produce their RRP certification. If the vendor staff member is unable to meet this requirement, EH&S will

cite the vendor for deficiency and may order the vendor to stop work on the project. Any such instances will be noted in the Lead Exceptions Report.

- For all new contracts that may include work requiring lead safe work practices, Procurement will include a version of the above-specified process as part of the contract specifications and will require the vendor to submit an initial roster of RRP-certified workers. The contracts will be updated by June 30, 2021.